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14 March 1997

MEMORANDUM FOR COMMAND COUNSEL, ARMY MATERIEL COMMAND

SUBJECT: Availability of Army Appropriations to Pay  
Cash Awards for Employees who Enroll in Commercial  
"Frequent Flyer" Programs

This responds to your request for a legal opinion concerning a proposal by U.S. Army Tank-automotive & Armaments Command (TACOM) to establish an incentive awards program under which employees who enroll in "frequent flyer" programs and obtain free airline tickets through official travel would receive cash awards based on savings the government accrues in using the tickets. For the reasons set forth below, we conclude that Army appropriations are not available for the purpose of making such awards.

According to 10 U.S.C. § 1124, cash awards may be paid to members of the armed forces whose "disclosure, suggestion, invention, or scientific achievement contributes to the efficiency, economy, or other improvement of operations or programs relating to the armed forces." Voluntarily enrolling in a commercial airline's "frequent flyer" program clearly does not constitute the type of act for which cash awards may be paid under the terms of this statute. Accordingly, we conclude that Army appropriations are not available for this purpose.

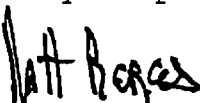
The Government Employees' Incentive Awards Act [hereinafter "Act"], 5 U.S.C. § 4501-4506, authorizes agency heads to "pay a cash award to, and incur necessary expenses for the honorary recognition" of a federal civilian employee who "by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork," or who "performs a special act or service in the public interest in connection with or related to his official employment." 5 U.S.C. § 4503. In our opinion, enrolling in commercial "frequent flyer" programs does not entail the quality and degree of personal effort for which Congress intended to authorize monetary recognition under the Act.

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Under DoD policy, cash awards must be based either upon accomplishments that are outside the employee's job responsibilities, or accomplishments that are within these responsibilities, but so superior as to warrant special recognition. See DoD Instruction 5120.16 (Encl. 2), para. I.A.1. The responsibility to conserve government resources when traveling falls well within the scope of a federal employee's duties. See Joint Travel Regulation, para. C1058. Indeed, while DoD employees are not required to enroll in "frequent flyer" programs, the Defense Travel System has taken steps to facilitate employees' enrollment in these programs. See Under Secretary of Defense (Comptroller) Memorandum, subject: Travel Reengineering Implementation Memorandum #13--Department of Defense (DoD) Frequent Flyer Program Policy, dated 12 November 1996. Thus, it is clear that enrollment in such programs is neither beyond the scope of DoD employees' job responsibilities, nor an act of superior accomplishment warranting special recognition.

Our conclusion is consistent with guidance promulgated by the Office of Personnel Management (OPM), the agency statutorily entrusted with the responsibility to prescribe regulations under which executive branch award programs will be administered. 5 U.S.C. § 4506. The OPM regulations define an "award" as "something bestowed or an action taken to recognize and reward individual or team achievement[.]" 5 C.F.R. § 451.102 (emphasis added). The Comptroller General has similarly concluded that the Act contemplates an employee's "superior performance" as the basis for an award. 67 Comp. Gen. 349, 350 (1988) (agreeing with OPM's disapproval of proposed incentive awards program for nonuse of sick leave). Accordingly, we conclude that Army appropriations are not available for the purpose of paying cash awards to civilian employees for enrolling in "frequent flyer" programs.



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